

283901



a Genesee & Wyoming Company

FEDERAL RAILROAD
ADMINISTRATION

2004 JUN -8 PM 3: 28

OFFICE OF CHIEF COUNSEL



un compagne de Genesee & Wyoming

DEPT. OF TRANSPORTATION
04 JUN 15 AM 9: 50

Attn: Document Clerk
Office of Chief Counsel
Federal Railroad Administration
1120 Vermont Ave., N. W.
Mailstop 10
Washington, D. C. 20590

May 24, 2004

FRA-2001-11068-38

Title: APPEAL FOR AMENDMENT TO THE EXECUTIVE SUMMARY of PART 219 FINAL RULE on EXPANDED APPLICATION of FRA ALCOHOL & DRUG RULES to FOREIGN RAILROAD FOREIGN BASED (FRFB) EMPLOYEES WHO PERFORM TRAIN SERVICE IN THE U.S..

49 CFR 219 - (DOCKET NO. FRA 2001-11068 NOTICE NO. 5)

Under authority of 49 CFR 219.7, this appeal requests waiver of applicability of the Part 219 Final Rule effective June 11, 2004 on the expanded application of FRA alcohol and drug rules to FRFB employees who perform train service in the United States.

This appeal is written on behalf of the St. Lawrence & Atlantic Railroad, Quebec, Inc., a Genesee & Wyoming Company, headquartered in Auburn, Maine and operating between Richmond, Quebec and Island Pond, Vermont. Train crews based in Richmond, Quebec cross the border at Norton, Vermont and proceed 15 miles into the U. S. to Island Pond, Vermont where crews are changed and crews employed by the St. Lawrence & Atlantic Railroad take over.

Island Pond, located in northeastern Vermont, is a small town with a small population and contains no large industrial base or major employer. Island Pond has no hospital, only a small clinic which steadfastly refuses to engage in any type of Drug or Alcohol testing. Railroad ability to randomly test train crews is severely hampered by the location of acceptable facilities. The nearest testing facility is located in Newport, Vermont, a distance of 25 miles. The next closest is located in Colebrook, New Hampshire a distance of 40 miles to the east. Both of these facilities have trained personnel on hand only during normal business hours.

SLA's road trains are normally in the Island Pond area in the very late afternoon and early morning to facilitate connections with the CN in Richmond, Quebec and with the Springfield Terminal (Guilford Rail System) at Danville Junction, Maine. These hours conflict with those of the testing locations, and the availability of qualified people to take specimens. Rescheduling train times to allow availability of testing to be done in service hours would be detrimental to business for this small shortline.

St. Lawrence & Atlantic Railroad, 415 Rodman Road, Auburn, Maine 04210
(207) 782-5680 FAX (207) 782-5857

There is no taxi service available in this area. Though the company maintains a vehicle for short trips to and from the train, it would likely require additional company resources to transport employees to and from the test site. Train crews currently end their tour of duty at the Island Pond Station and walk across the street to a company rented bunkhouse where they take rest. Returning on duty, they take possession of the westbound train at mileage 2.3.

We are aware of a mobile facility that is available to do random tests on site but in a remote location like Island Pond, the minimum charge is \$500 plus mileage which would make just the sampling fee at over \$750 dollars; an unreasonable burden for our small line.

Operational requirements make it impossible for the train crew to sustain a three hour delay and still complete their work within hours of service limitations, adding the additional necessity to relieve the tested crew member as well.

It should be noted that the U. S. operations of the St. Lawrence & Atlantic Railroad (Quebec) are only five miles longer than the ten mile limit specified in the amended Part 219. Trains entering the United States are stopped at the border at Norton, Vt. and an inspection of the locomotives and train is conducted by Customs and Immigration officials. The Canadian crews board the westbound trains at mileage 2.3, which entails only 12.7 miles of U. S. operation before entering Canada. Additionally, these operations are conducted in an extremely sparsely populated area on a single track railroad. The only siding is at Norton, Vt. and is used as a set-off track for Customs when required. Maximum train speed is twenty-five miles per hour. Two miles of the fifteen mile operation are conducted inside yard limits at Island Pond, requiring restricted speed operation, and it is within these two miles where the three public highway crossings at grade are located.

This program could easily cost over \$1000 per individual selected to have the required tests performed in this expanded program, hardly a de minimis impact for a small railroad. These costs would have to be factored into all rail service costs to our customers on the entire line, and could tip the scale to favor other forms of transportation in our service area, an area already over-burdened with trucks on the highways.

For these reasons, the St. Lawrence & Atlantic Railroad (Quebec), Inc. wishes the expanded rule to be amended to grandfather our 15 mile trip in a remote part of Northern Vermont.

Signed:

Date:

Robert E. Pratt
May 24, 2004

Manager Dispatching/Customer Service
St. Lawrence & Atlantic Railroad
415 Rodman Road
Auburn, Maine 04210